

REMARKS

Reconsideration and allowance are respectfully requested.

Applicants have canceled claims 15 to 34 and added new claims 25 to 33. The new claims are supported by the specification and the claims as originally filed, and raise no issues of new matter. In particular, the limitation with respect to the degree of filling of the recited bottle is supported at, *inter alia*, page 5, lines 4, to 6, where it is recited that "In the context of the present application filling of the bottles denotes typically a normal filling, such that for example in the upper part of said bottle some air will remain."

THE OBJECTION TO THE DISCLOSURE

It is respectfully submitted that the amendment to the Abstract overcomes the Examiner's objections set forth in the outstanding Office Action.

THE REJECTION UNDER 35 U.S.C. § 112, 2ND PARAGRAPH

Claims 32 and 33 no longer recite the article "the", and so do not suffer from the antecedent basis issue cited by the Examiner with respect to canceled claims 23 and 24.

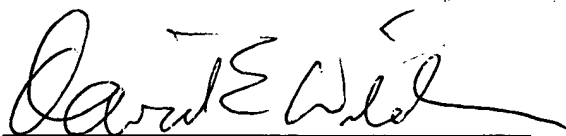
THE REJECTION UNDER 35 U.S.C. § 103(A)

The primary reference cited by the Examiner in all of the claim rejections is Carter, U.S. Patent 4,805,377. As noted by the Examiner, Carter discloses a pharmaceutical product where the package is made of polypropylene, autoclaving the package at at least 121°C and after autoclaving the package, the package doesn't shrink, deform, or explode. The package of Carter can also have a plastic nozzle tip, a cap, and walls with a wall-thickness.

Applicants respectfully submit, however, that Carter actually teaches away from the new claims submitted by the present amendment. New independent claim 25 specifically requires that "...the solution or gel does not fill the bottle completely and some air is disposed in the bottle...". Carter, however, teaches at column 3, lines 58 to 59, that **"In the present process the elimination of trapped air in the bottle eliminates the dimpling factor."** Thus, the basis of Carter's invention is the complete filling of the polypropylene bottle to prevent deformation. Such complete filling is not allowed by the terms of the present claims. Accordingly, it is respectfully submitted that Carter teaches away from the requirements of the present claims, and so cannot form the basis for case of *prima facie* obviousness. In view of this deficiency of the Carter reference (which is the primary reference cited in all the § 103(a) rejections), it is respectfully submitted that none of the rejections of the claims can stand, and should be withdrawn.

In light of the above remarks and amendments, it is respectfully submitted that claims 25 to 33 are in condition for allowance, and such action is earnestly solicited.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "David E. Wildman", written over a horizontal line.

David E. Wildman
Attorney for Applicants
Reg. No. 40,226

Novartis Corporation
Patent and Trademark Dept.
564 Morris Avenue
Summit, NJ 07901-1027
(908) 522-6946

Date: December 31, 2002